# LYNCHBURG CITY COUNCIL Agenda Item Summary

MEETING DATE: August 10, 2004 AGENDA ITEM NO.: 6

CONSENT: REGULAR: X CLOSED SESSION: (Confidential)

ACTION: X INFORMATION:

ITEM TITLE: Public Hearing Regarding Vacating a 50' Portion of Public Right-of-Way

#### RECOMMENDATION:

Adopt an ordinance vacating a 50' portion of public right-of-way located between 138 and 140 Acres Court.

#### SUMMARY:

Theodore and Kimie Leadbetter and James and Virginia Ayers have requested that a 50' portion of public right-of-way located between 138 and 140 Acres Court be vacated. The Technical Review Committee comments have been incorporated into the proposed ordinance.

### PRIOR ACTION(S):

March 2, 2004: Technical Review Committee Review August 3, 2004: Physical Development Committee Review

#### **BUDGET IMPACT:**

None

## CONTACT(S):

Pat Kost 455-3990 Theodore Leadbetter 237-3119

## ATTACHMENT(S):

- ➤ Ordinance
- ➤ Map
- ➤ Technical Review Committee Report
- Application
- ➤ Agreement

## REVIEWED BY: Ikp

#### AN ORDINANCE VACATING A 50' PORTION OF PUBLIC RIGHT-OF-WAY

WHEREAS, Theodore and Kimie Leadbetter and James and Virginia Ayers have requested that the City of Lynchburg, on its own motion, vacate a 50' portion of public right-of-way located between 138 and 140 Acres Court; and

WHEREAS, the petitioners own all of the adjoining property; and

WHEREAS, City Council finds that no public inconvenience will result from vacating this portion of public right-of-way;

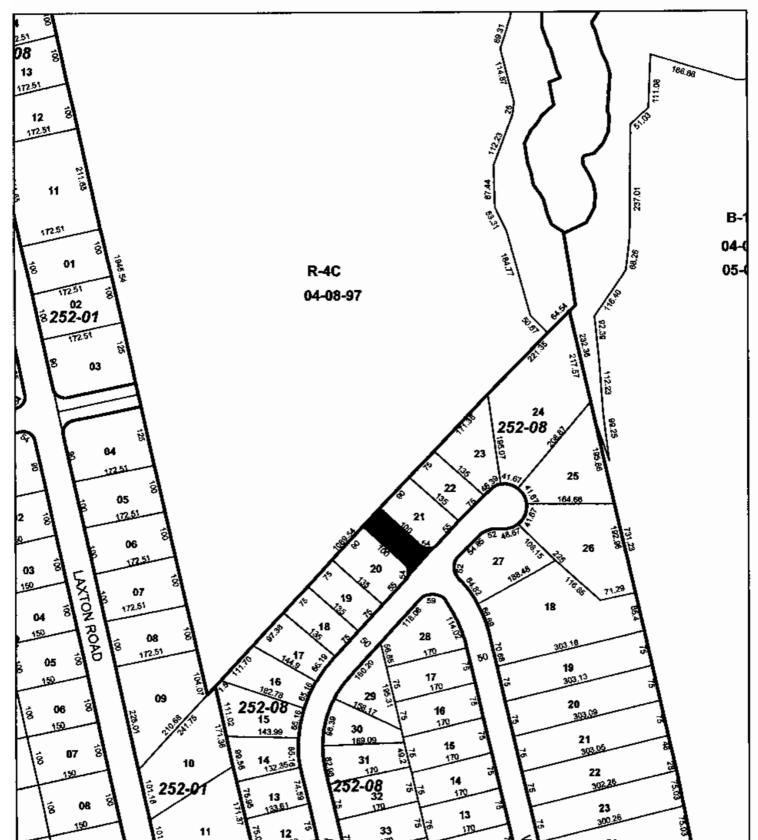
NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lynchburg, on its own motion, and in accordance with the provisions of Section 15.2-2006 of the <u>Code of Virginia</u>, 1950, as amended, and Section 35-71 through Section 36-77 of the <u>City Code</u>, 1981, as amended, the following described portion of public right-of-way be, and the same hereby is, discontinued and vacated, namely:

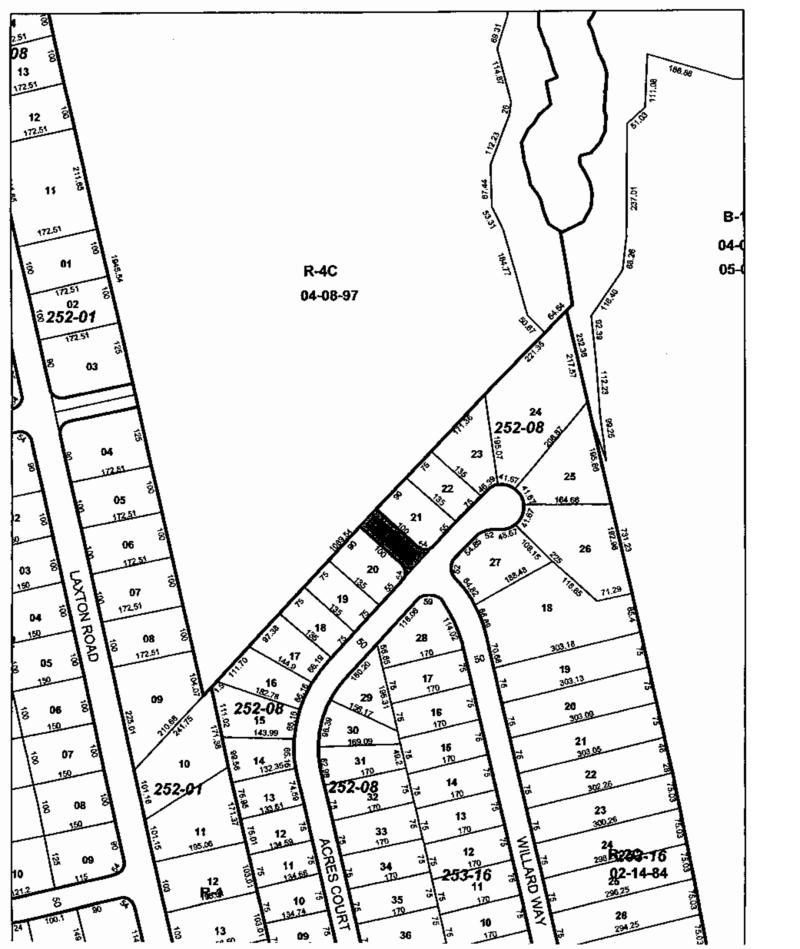
A 50' portion of public right-of-way located between 138 and 140 Acres Court.

Said vacation is contingent upon the following conditions: (1) that an agreement is executed by the petitioners granting Centra Health an emergency access easement through the right-of-way to be vacated; and (2) that an easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg, and the construction of any building or structure or the use of the vacated property in any manner that could interfere with the City's right to locate, repair, replace and maintain and perpetually operate utilities is prohibited without the prior written approval of the City Manager's Office, City Utilities Division and the City Engineering Division.

BE IT FURTHER ORDAINED That the Clerk of Council is hereby authorized and directed to deliver a duly-certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg.

Adopted:		
Certified:	Clark of Causail	
103P	Clerk of Council	







## THE CITY OF LYNCHBURG, VIRGINIA

Planning Division

City Hall, 900 Church Street, P.O. Box 60 Lynchburg, Virginia 24505 ◆ (434) 455-3900 FAX ◆ (434) 845-7630

March 18, 2004

TO:

Patricia W. Kost, Clerk of Council

FROM:

Annette M. Chenault, Planner II / Intle M. Chenault

RE:

Street Vacation - Unnamed Street

Off Acres Court

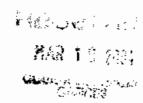
Between 138 and 140 Acres Court

On March 2, 2004 the Technical Review Committee (TRC) reviewed the street vacation for the subject right-of-way. Following are the comments:

- The subject project proposes the vacation of an unnamed street located between 138 and 140
  Acres Court. An application for the vacation of the right-of-way has been submitted to the City
  Manager's Office. Contact Patricia Kost, Clerk of Council, at 455-3982 for further information and
  the public hearing date.
- 2. All lots fronting on the portion of the unnamed street to be vacated have right-of-way frontage on Acres Court and Enterprise Drive; therefore, the vacation would not cause any lot to be landlocked.
- Centra Health, who owns property abutting the right-of-way, has expressed its concern about
  vacating this right-of-way. The owners of 138 and 140 Acres Court informally agreed at the TRC
  meeting to grant Centra Health an easement through the right-of-way to be vacated for
  emergency access.
- 4. The adjoining property to the north, including the Centra Health property, was rezoned to R-4 "Conditional" on April 8, 1997. One of the rezoning proffers was "...the two existing 'stub' streets that now exist in this subdivision shall not be connected to this development." Therefore, the Planning Division supports the proposed right-of-way vacation of the subject unnamed street.
- 5. The access should be gated and for fire emergency only.

Attachment

pc: Technical Review Committee



### APPLICATION FOR THE VACATION OF

## A PORTION OF PUBLIC RIGHT-OF-WAY (Street/Alley)

## LOCATED

138 Acres	CI	
100//07	د وس	

The undersigned applicant, Theodore Percy Leadhetter, pursuant to the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 36-77 of the City Code, 1981, as amended, respectfully makes application to the Lynchburg City Council for the vacation of a certain portion of public right-of-way described as follows:

501 Public 81944-73-way

Small for between house # 138 Acre's

Small tot between house 138 Acre	5
and 140 Acres Ct	

The applicant further request the Lynchburg City Council to hold a public hearing on this application at its meeting to be held in the Council Chambers, City Hall, 900 Church Street, Lynchburg, Virginia, on the early of the conclusion of which hearing to consider whether or not to vacate the above described public right-of-way.

Applicant Applicant Kimie Leadbetter  135 Acres Ct Lynchburg Va. 2450. Address		
	Messere Percy Locas Applicant	Metter_

<u>431-337-3//9</u> Telephone Number

WE, THE ADJOINING PROPERTY OWNER(S), ARE IN AGREEMENT TO THE VACATION OF THE ABOVE DESCRIBED PROPERTY:

James T. Ayus 140 ACRES di Jam). THIS AGREEMENT made this day of July, 2004, by and between Theodore P. Leadbetter and Kimie Leadbetter, husband and wife, and James T. Ayers and Virginia D. Ayers, husband and wife, Grantors, and Centra Health, of Lynchburg, Virginia, Grantee.

#### WITNESSETH:

That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration, paid by the said Grantee to the Grantors, the receipt of all of which is hereby acknowledged, the said Grantors do hereby grant and convey to the Grantee, their successors and assigns, a right of way and easement to a 50 foot right-of-way located between 138 Acres Court and 140 Acres Court. The purpose of this easement and right-of-way is for access to the adjoining property owned by the Grantee that will allow for unobstructed emergency vehicular traffic. It is understood that no driveways, pavement rock or gravel are to be added to these areas unless written permission is obtained from the Grantors. The surface of the terrain is not to be disturbed except for normal wear and tear involving access. The Grantee agrees to install a gated fence between the property owned by the Grantee and this portion of right-of-way at a time determined by the Grantee.

It is agreed that this easement is granted on the condition that the above mentioned 50 foot right-of-way located between 138 Acres Court and 140 Acres Court is vacated by the City of Lynchburg.

This easement shall run from the property owned by the Grantee, through the 50 foot right-of-way to Acres Court and is to be used for emergency only.

WITNESS the following signatures and seals:

Meodera & Theodore P. Leadbetter
Kimie Leadbetter (SEAL)
James T. Ayers (SEAL)
Virginia D. Ayers (SEAL)

COMMONWEALTH OF VIRGINIA

To-Wit:

CITY OF LYNCHBURG

The foregoing Agreement was acknowledged before me this <u>3 id</u> day of <u>July</u> 2004, by Theodore P. Leadbetter and Kimie Leadbetter, husband and wife.

My commission expires:  $\sqrt{39/3008}$ 

Sichie S. Cartes Notary Public

## COMMONWEALTH OF VIRGINIA

CITY OF LYNCHBURG

The foregoing Agreement was acknowledged before me this

April, 2004, by James T. Ayers and Virginia D. Ayers, husband and wife.

My commission expires: <u>3/39/3008</u>

To-Wit:

Notary Public